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4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

6 HANNA V. CONGER,

7 Plaintiff,

8 vs.

9 K & D FISHERIES, LLC, IN PERSONAM;  
10 THE F/V KESIA DAWN, OFFICIAL  
11 NUMBER 629009, HER ENGINES,  
12 MACHINERY, APPURTENANCES AND  
13 CARGO, IN REM,

14 Defendants.

Case No.

IN ADMIRALTY AND AT LAW

**SEAMAN'S COMPLAINT IN REM AND  
IN PERSONAM FOR PERSONAL  
INJURIES, PUNITIVE DAMAGES,  
CLAIM FOR MAINTENANCE AND  
CURE – ALL WITHOUT PAYMENT OF  
COSTS, 28 U.S.C. § 1916**

15 COMES NOW the plaintiff and complains of the defendants alleging upon information  
16 and belief as follows:

17 1. Plaintiff, Hanna V. Conger, brings and maintains this action pursuant to 28 U.S.C.  
18 § 1333; the Jones Act (46 U.S.C. § 30104), U.S. CONST. art. III, § 2, and the general maritime  
19 law.

20 2. Plaintiff is a resident of King County. The in personam defendant on information  
21 and belief either has a residence and/or a principal place of business in King County, Western  
22 District of Washington.

23 3. Plaintiff is a seaman and a ward of this Court and elects to take advantage of the  
provisions of 28 U.S.C. § 1916 to proceed without prepayment of costs or fees.

SEAMAN'S COMPLAINT IN REM AND IN PERSONAM FOR  
PERSONAL INJURIES, PUNITIVE DAMAGES, CLAIM FOR  
MAINTENANCE AND CURE – ALL WITHOUT PAYMENT OF COSTS,  
28 U.S.C. § 1916 - 1  
CASE NO.

**JOHN W. MERRIAM**  
4005 20th Avenue West, Suite 110  
Seattle, Washington 98199  
T (206) 729-5252 ♦ F (206) 729-1012

1           4.       Defendant herein, K & D Fisheries, LLC, is a limited liability company existing  
2 under and by virtue of the laws of a state of states unknown to the plaintiff and at all times herein  
3 mentioned was acting by and through its officers, agents, servants, employees and  
4 representatives and, on information and belief, has a principal place of business or is doing  
5 business in the Western District of Washington.

6           5.       The F/V Kesia Dawn is a fishing vessel documented by the United States, official  
7 number 629009. Said vessel has her home port in the Western District of Washington or will be  
8 found in the Western District of Washington during the pendency of this action. During all times  
9 herein mentioned said vessel was owned or bareboat chartered by the defendants, and was engaged  
10 in maritime commerce.

11           6.       At all times herein mentioned, plaintiff was employed by the defendants as a  
12 member of the crew, in the service of said vessel and was at all times acting with the course and  
13 scope of her duties as deckhand in furtherance of the mission of said vessel.

14           7.       In September 2014, while said vessel was in navigable waters, the Master of the  
15 vessel dropped a tote full of fish on plaintiff's left foot. Plaintiff did thereby sustain severe,  
16 painful, and disabling injuries to her foot and other injuries not fully known at this time. Plaintiff  
17 prays leave to amend this complaint when the full extent of injuries and disabilities is  
18 ascertained.

19           8.       Said injuries, disabilities, and damages were directly and proximately caused by  
20 the unseaworthiness of the vessel; the negligence, in whole or in part, of the defendants and their  
21 agents, servants and employees; and the failure of the defendants to provide a reasonably safe  
22 place to work in one or more of the following respects: The Master was negligent in dropping a  
23 tote of fish on plaintiff's foot.

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1           9.       As a direct and proximate result of the foregoing, plaintiff was caused to and did  
2 incur reasonable charges for medical care and attention. Plaintiff does not know the reasonable  
3 value of said medical care and attention already rendered or to be rendered in the future and  
4 therefore, prays leave to amend this complaint to show the same.

5           10.      As a further result of the foregoing, plaintiff was rendered unable to engage in her  
6 normal and usual occupation for a period of time.

7           11.      Plaintiff demands maintenance from the defendants in a per diem amount to  
8 recuperate on land with room and board at least equal to that received on defendant's vessel,  
9 until the plaintiff reaches maximum cure or until the plaintiff is declared fit for duty, whichever  
10 last occurs. Plaintiff further demands the actual costs of cure until the plaintiff is fully cured, and  
11 if never cured, plaintiff demands the cost of cure for the remainder of plaintiff's natural life.

12          12.      Defendant paid no maintenance or medical bills until plaintiff hired a lawyer.  
13 Plaintiff was thereafter cutoff maintenance and cure before she achieved maximum cure and  
14 while she was still treating. The failure to pay maintenance and cure has caused additional  
15 damages to the plaintiff whether or not the failure to pay was reasonable under the  
16 circumstances. Plaintiff is entitled to compensatory damages – including contingent attorney  
17 fees – for the negligent failure to pay maintenance and cure. Plaintiff is entitled to reasonable  
18 attorney fees for the arbitrary and capricious failure to pay maintenance and cure. Plaintiff is  
19 entitled to punitive damages for the willful and wanton failure to pay maintenance and cure.

20          13.      Eighty-nine (89) days following the filing of this action, plaintiff waives the  
21 physician-patient privilege, under protest, and only on condition that the Court holds that a  
22 waiver is required in this case. This waiver is made pursuant to RCW 5.60.060(4)(b), as  
23 amended by Chapter 305, Laws of 1986; as limited by the civil discovery rules. Specifically,

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1 plaintiff authorizes no ex parte contacts or inquiry to medical personnel regarding matters not  
2 reasonably calculated to lead to the discovery of admissible evidence. This waiver is made  
3 subject to plaintiff's challenge to the constitutionality of RCW 5.60.060(4)(b) on privacy  
4 grounds, and the applicability of said statute to federal causes of action brought in federal court.  
5

6 WHEREFORE, plaintiff prays judgment against the defendants as follows:

7 1. For a declaration that the plaintiff holds claim to a preferred maritime lien against  
8 the defendant vessel, her engines, machinery, appurtenances and cargo;

9 2. For arrest, condemnation and sale of the defendant vessel including her engines,  
10 machinery, appurtenances and cargo;

11 3. For general damages, including damages for loss of consortium, as are reasonable  
12 and fair;

13 4. For such special damages, including found, as may be shown by the proofs  
14 herein;

15 5. For maintenance and cure, and for consequential and punitive damages for failure  
16 to pay same;

17 6. For pre-judgment interest on all claims as is in the law provided;

18 7. For costs of suit and reasonable attorney fees;

19 8. For such other and further relief, including punitive damages, as is met and just in  
20 the circumstances.

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1 DATED this 22nd day of August, 2017.

2 GORDON C. WEBB AND JOHN W. MERRIAM,  
3 D/B/A SEATTLE MARITIME ATTORNEYS, OF  
ATTORNEYS FOR PLAINTIFF

4 By: /s/ John W. Merriam  
5 John W. Merriam, WSBA #12749  
6 4005 20th Avenue West, Suite 110  
7 Seattle, WA 98199  
Telephone: (206) 729-5252  
Fax: (206) 729-1012  
Email: [john@merriam-maritimelaw.com](mailto:john@merriam-maritimelaw.com)

8 I am the attorney for the plaintiff in this action and have knowledge of the matters asserted  
9 in the above complaint based upon information provided by the plaintiff.

10 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the allegations of the  
11 above complaint are true and correct to the best of my knowledge and belief.

12 Dated at Seattle, Washington this 22nd day of August.

13  
14 /s/ John W. Merriam  
15 John W. Merriam

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